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MARRIAGE SYSTEMS, FAMILY LAWS, PROPERTY OWNERSHIP AND WOMEN

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MARRIAGE SYSTEMS AND THE STATUS OF WOMEN IN ASIA AND THE PACIFIC

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Swami Dayanand, when asked why he had bowed and said 'Namaste' with folded hands to a little girl, said "She is the future mother".

"Blessed are the homes that honour Women," is a popular belief of many, yet the status of women in marriage systems is inferior to their civil, political and economic status. That this should be so is ironical indeed as that very 'motherhood' which has been deified stands in the way of women being given equal status in marriage.

The reasons for this situation are not hard to find so far as South East Asia is concerned; the marriage systems have been treated as 'untouchable' and have suffered deliberate neglect at the hands of the state. Political expediency, the fear of annoying religious and ethnic leaders and their equally orthodex followers, male domination in decision-making processes, the inability to break through traditions, customs and ancient mythology discriminatory to women are among the factors which perpetuate the inferior status of women in marriage systems. The impact of these factors varies among countries in the region.

The civil disabilities that women suffered in the past as a result of the concept that woman was the property of man or the feudal doctrine of coverture based in part upon biblical notions of the unity of flash of husband and wife have largely been done away with. These had the effect that the very being or legal existence of the woman was suspended during the marriage and 'the oneness' in reality meant that 'the one was the husband'.

Most of women today have in theory at least the right to own property and dispose of it, enter into contracts, sue and be sued in court in civil and criminal matters. The participation of women in the liberation movements of their countries in this region has entitled them to participate fully in political activities and they have the right to vote in all elections and hold public office.

Economic rights in many countries have been obtained by women through the international instruments, constitutions, and legal enactments which declare that women have the right to employments in all occupation and to equal pay for equal work.

It is worth noting that only a few countries of this region have included a provision relating to marriage and family in their constitutions.

Article 24 of the Japanese constitution states:

> Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual co-operation with the equal rights of husband and wife as a basis. With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes.

Articles 48 and 49 of the constitution of the People's Republic of China grant women equal rights with men in family life and provide for protection by the State to marriage, the family and mother and child. Article 49 further casts a duty on both husband and wife to practise family planning and prohibits violation of the freedom of marriage and maltreatment of old people, women and children.

Article 24 of the constitution of Viet Nam also grants equal rights to women in domestic life and protects marriage and the family.

Despite the institution of international instruments beginning with the Charter of the United Nations (1945); the International Bill of Human Rights; the Convention on the Nationality of Married Women; Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages; Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages; Declaration on the Elimination of Discrimination against Women; and the Convention on Elimination of All Forms of Discrimination against Women (1979) which have specific provisions relevant to marriage systems, national legislation in this area is often deficient.

The inadequacy of legislation in many countries in this field may warrant the United Nations undertaking the task of drafting a detailed model family law code for member countries to adopt. The existing constitutions in this region grant equality and freedom to women. An analysis of the statutes enacted in the various countries of this region in the post-constitution period shows that in many of the countries efforts at reform and equality relating to marriage and family have been piecemeal.

There is need for a total review of the legislation in these countries relating to and affecting marriage systems and enactment of family law codes. Australia, Japan and China have fairly comprehensive family laws to achieve the avowed objectives of the relevant international instruments.

Yet the assertion of faith in the dignity and worth of the human person sounds hollow in view of the fact that even today the basic postulate that woman is as much a human being as man and thus entitled to the same freedoms, rights and responsibilities, has yet to find broadly-based acceptance.

In other countries the concept of and necessity for complete equality between women and men is accepted but the misinterpretations of religious precepts or the non-acceptance of the idea that laws must change with changed conditions obstruct the elimination of discriminatory family laws.

In some countries the lack of realization of the urgency of the need for total reform or the absence of political will results in the continuation of the laws that violate the rights of married women.

A marriage system must necessarily take into account the laws, the customs, the ceremonies, the traditions, current issues and attitudes, law alone does not constitute a marriage system - at times law appears to be even irrelevant to the factual situation -- yet since the legal status of the parties is determined by law irrespective of the parties' intentions or even awareness of the laws governing them, it becomes necessary to understand the legal position of women in a marriage system. This is an extremely difficult and complex task in view of the fact that South Asia is a vast region with widely different and diverse cultures, races, religions, ethnic groups, influences, political idologies, laws, legal, socio-economic systems and differing stages of development all of which directly affect marriage systems.

The marriage systems even within each country of this region are extremely varied. Innumerable marriage systems exist among the indigenous people of every country and they may vary with each clan. The matriarchal, matrilineal, matrilocal, the patriarchal, patrilineal, patrilocal or the combination of both systems exist side by side. Marriages can be monogamous, polygamous, hypergamous, polyandrous. These systems mostly based on custom are an exception to the laws enacted with respect of each major group of persons depending on the religion they belong to.

The marriage system for the majority population in South and South East Asian countries is patriarchal, patrilineal and patrilocal. The extended family, kinship society and the joint family system exist in many countries. These create special problems. Those who have adopted nuclear family system experience difficulties in the existing role pattern of women and men when there is no one to look after the women in times of sickness or confinement particularly in countries where the domestic servant facility has either disappeared or is scarce.

Many of the countries of South Asia became independent in the 40's. All the countries in this region have guaranteed equal rights to women under the existing constitutions and most of them have enacted legislation beginning with 50's to bring about equality in the marriage laws. But there are some countries, particularly the Islamic states of Pakistan and Bangladesh which need to make far reaching changes in their laws relating to women to bring about equality in the marriage system.

The Muslims who constitute the majority in these countries are governed by Muslim Law based on the Koran. It is a matter of great concern that many of the commands attributed to Koran and the Prophet may not be in the spirit of Koran and may be misinterpretations of the true concepts by those without adequate grounding in notions of right and wrong as stipulated in Muslim Law.

J.D. Anderson in his book on 'Islamic Law in the Muslim World', 1959, states that President Bourguiba in his forthright way asserted that ideas which were valid in the past, today offend the human spirit, such as polygamy. "Islam had liberated the spirit and bidden men reflect on religious laws in order to adapt them to human progress". The Tunisian Act of 1957 prohibited polygamy, a prohibition which is said to find its justification in other Islamic provisions that a man should confine himself to one wife unless confident that he is capable of treating a plurality of wives with equal justice, and the assertion that both experience and revelation have made it clear that such impartiality is in fact unattainable."

These stringent conditions were like Portia asking Shylock, in 'The Merchant of Venice', to take his pound of flesh from Antonio but not to shed a drop of blood. She said:

/"Shed

"Shed thou no blood; nor cut thou less nor more
But just a pound of flesh: if thou tak'st more
Or less than a just pound, be it but so much
As makes it light or heavy in the substance,
Or the division of the twentieth part
Of one poor scruple: nay, if the scale do turn
But in the estimation of a hair,
Thou diest, and all thy goods are confiscate."

She won her case.

The legal system of the Muslim world may broadly be divided into three groups: (1) those that still regard the Sharia as the fundamental law and still apply it more or less in its entirety; (2) those that have abandoned the Sharia and have wholly substituted a secular law (Tunisia and Turkey); (3) those that have reached some compromise between these two positions.

Turkey has turned completely secular in the matter of all family laws.

Islam, in fact, punished a person who lightly divorced his wife by saying that he could not have her back because she had cohabited with another man.

In some countries the healthy tenets of Islam are ignored and there is a great resistance to change in these countries. It is time that interpretations which will do justice to their own religion, their women and themselves are considered.

India

Hindus are governed by Hindu Law as amended by the various Acts passed in the 1950s in the post-constitution period. This legislation extends to the whole of India except the state of Jammu and Kashmir and applies also to Hindus domiciled in the territories to which this Act extends who are outside these territories. Since Hinduism is a way of life and not a religion in the strict sence, the term Hindu includes any person who is a Hindu by religion in any of its forms or developments including a Virashaiva, a Lingayat or a follower of the Brahme, Prarthana or Arya Samaj, Buddist, Jain, or Sikh. Muslims are governed by Mahomedan Law as modified in different countries. Christians are governed by the Christian Law which has undergone considerable

change in many countries according to the needs of the time. Similarly the Parsees and the Jews are covered by their own independent laws. Buddhism, having spread to South East Asia, has had considerable influence on the marriage systems in these countries, as has the thought of Confucious and many other thinkers and law givers of this region.

The status of woman throughout the ages (apart from a very brief period when woman was said to be as free as man and equal to him in all respects, including sexual behaviour) has been in all these religions & philosophies inferior to that of man and this is reflected in the marriage systems of the countries of this region.

The goal set by the constitution makers in Article 44 of the Constitution of India in the Directive Principles Chapter of making an endeavour to secure for citizens a uniform civil code throughout the territory of India has yet to be achieved. The amendments made in Hindu Law by legislative enactments, the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, the Hindu Minority and Guardianship Act, 1956, the Hindu Adoption & Maintenance Act, 1956, have enhanced the legal status of women. A Hindu woman today is equal to man in matters of marriage, separation, divorce, maintenance, custody of children. A daughter has equal share with the son in the property of her parents and Hindu marriages are now monogamous. These acts have brought in concept of contract to Hindu marriages which are sacramental (Sanskara).

Discrimination, however, still exists in matters of inheritance as a daughter is not entitled to a share in the co-parcenary property from birth as a son is, nor is she entitled to ask for the partition of this property. A mother is still not the natural guardian of her children. The woman does not have rights as joint owner of property acquired during the existence of marriage, as no monetary value is put on her work as a housewife or even as an agricultural worker in the fields in the rural areas. This causes great hardship to a woman particularly at the time of separation and divorce.

Since the majority of the women are home makers the non-existence of a right to the income of the husband makes her dependent on the man financially and psychologically.

The Constitution of India in Article 15 (3) permits enactment of special provisions for women and children. Yet the rights of the husband in the absence of community of property and income of the husband, to his right to will away his property to whom he likes cause injustice.

There are several other instances which because of the historical disadvantage suffered by women need correction; e.g. the jurisdiction to entertain a petition for relief in matrimonial matters is with courts where the marriage took place or where the parties last resided together causes difficulties. Very often the woman, after leaving her matrimonial home goes back to her parents or finds work in a place which may be far away from either of these places. Such procedural reforms are extremely important because the inability to seek relief particularly for women without incomes can be extremely frustrating.

Registration of a Hindu marriage is provided for but is not compulsory which in the context of the Dowry problem, causes hardship. Child marriage is prohibited; widow's re-marriage is permitted.

A Muslim marriage (nikah) is a contract made between two persons of opposite sexes. The legal essentials to the validity of a Mohamedan marriage are that there should be a proposal made by or on behalf of one of the parties to the marriage and an acceptance of the proposal by or on behalf of the other in the presence and hearing of two male or one male and two female witnesses, who must be sane and adult Mohamedans. Mohamedan law does not prescribe that the proposal and acceptance should be in any particular form. Evidence that the husband agreed to the dower and the wife gave her consent constitutes sufficient proof of proposal and acceptance.

Muslim women in India suffer discrimination under Muslim Law. Limited polygamy is legal. While a man can have four wives, the same is not permissible to a woman.* The Muslim male can divorce his wife at will without assigning any reason but the Muslim women can do so only on the limited grounds mentioned in the Dissolution of Muslim Marriage Act, 1939.

A Muslim woman is discriminated against in the matter of inheritance in that the female heir receives a share half the size of the male heir e.g. a daughter receives half share of the son and a sister half that of her brother.

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* The polygamy permitted to Muslim man in fact is often taken advantage of by Hindus who convert themselves to Muslims.

The beneficial provision for women in Muslim Law is that a person cannot will away his property or give it away as a gift without providing for the widow.

The father is the natural guardian of the children. The Muslim women is entitled to limited maintenance, but she is also entitled to maintenance under the Criminal Procedure Code which is applicable to women of all faiths. The Supreme Court in a recent decision held that a woman was entitled to maintenance out of the estate of her late husband. This was a case under the Special Marriage Act.

Christians are governed by the Indian Divorce Act, 1869. Marriage is monogamous under the Christian Law. The only ground for dissolution of the marriage recognized by the Act is adultery. For the husband adultery simpliciter is sufficient for divorce, while the wife must prove incestuous adultery, bigamy with adultery, or cruelty with adultery. The Christian woman is also entitled to divorce on the ground of conviction of her husband's sodomy, rape, or bestiality. This and the ground of bigamy is also available to a Hindu woman.

Parsees who are governed by the Parsee Marriage and Divorce Act of 1936 have equal rights to divorce based on the fault theory, with an additional right to the wife when she has been forced by her husband to prostitute herself. Parsi marriage is monogamous.

The Special Marriage Act, 1954, provides a special form of marriage to facilitate marriage between persons of different faiths which after requisite notice can be performed before a Registrar of Marriages and registered. Marriage performed under this Act of any member of Hindu undivided family has the effect of severance from such family.

Buddhism was recognized in all countries east of Persia as the religion of civilized mankind from the time of Ashoka till the rise of Islam. It spread to almost the whole of South East Asia.

Sumaingala, a married woman who embraced Buddhism, sang thus:

"O Woman, Well set free, How free am I,
How thoroughly free from Kitchen drudgery,
Stained and squalid 'mong my cooking pots,
My brutal husband ranked even less
Than the sun-shades he sits and weaves always.
Purged now of all my former lust and hate,
I dwell musing at ease beneath the shade
Of spreading boughs - O, but 'tis well with me."

Marriage according to Buddhism was a contract and not a sacrament. As Buddhism recognized the individuality and independence of women who were entitled to salvation in their own right whether married or unmarried, the position of married women improved during this period as Buddhist Law favours equality of the sexes and in many ways treats marriages as creating partnership in goods. Widows and divorced women are allowed to remarry. If parents did not get a girl married before the age of twenty, she had the right to marry anyone she pleased. It was specifically ordained that no woman could be married against her will. Monogamy was advocated.

In countries which came under the influence of Confucion thought, the relationship between woman and man was one of authority and obedience. The woman was expected to obey her father when single, her husband when married and her son as a widow.

Pakistan

The growing demand for women's rights in Pakistan is being resisted by those who wish to put extreme interpretations on the teachings of the Koran. Instead of bringing about reforms in the existing laws in accord with what has been done in other Muslim countries, greater restrictions are being placed on women.

Women have been banned from participating in spectator sports except before an all female audience. The country's sportswomen were outraged when only one woman was allowed to represent Pakistan in the Asian Games held in New Delhi last November.

The more serious are recent proposals of the Council of Islamic Ideology which has been reviewing and rewriting Pakistan's laws. These include an amendment to the law of evidence which would make the testimony of one male witness equal to that of two women. To become law, the amendment only requires President Zia's signature.

There is also discussion on introducing the Islamic system of qisas, or blood money, paid in compensation to the relatives of murder victims, which puts the value of a female victim at half that of male.

The proposals have provoked an unprecedented demonstration by urban women in defence of their rights. A march by women in Lahore in February 1983 led by the Women's Action Forum (WAF) was broken up by police using tear gas and baton charges. The brutality of the police action caused widespread criticism and encouraged a serious reappraisal of the place of women in Pakistan's Islamic society.

A recent order by a District Judge to lash in public and jail with hard labour a blind woman victim of rape for sex outside marriage angered Pakistani women who argued that this is contrary to the humanitarian principles of Islam. The public flogging of a 35 years old widow on an adultery charge with 15 lashes in front of 5,000 people and denying her water when she asked for it twice during the flogging has been severely condemned.

The Women's Action Forum has demanded immediately cancellation of this primitive and faulty law.

Bangladesh

In Bangladesh, the Muslims are governed by Muslim Law and the Hindus by the old Hindu Law. There has been very little reform in matters of family law for these women. The Muslim Family Law Ordinance of 1961, restricted the power of divorce of man somewhat as he has to apply to the Arbitrary Counsel before he can divorce his wife.

The Bangladesh marriage system and the marriage laws however continue to be discriminatory. Marriages are arranged by the parents and in spite of Child Marriage Restraint Act, 1929, child marriages are prevalent. Dowry is prevalent in spite of the fact that the Muslim Law provides for "Meher Dower". Polygamy is permitted and purdah is prevalent.

According to the 1974 census, out of 37,071,000 males and 34,407,000 females, 29,000 males and 235,000 females were considered as divorced. Married females (14,067,000) outnumbered married males (13,927,000). This indicates that polygamy is practised. One effect is that women in Bangladesh suffer from poverty, illiteracy, and destitution, more than the men do.

A recent ordinance on cruelty to women, Deterrent Punishment Ordinance, 1983, promulgated by the Council of Ministers to stop the harassment of women by men, sometimes by their husbands and others, has been welcomed by women in Bangladesh.

/Nepal

Nepal

In Nepal the First Muluki Code (Civil Code) was enacted in the year 1854 and continued until 1963. It was more or less based on ancient Hindu Law. In March 1963, it was replaced by a new uniform Civil Code which was made applicable to Nepalese of all religions, Hindus as well as non-Hindu (Buddhists and Muslims).

The Code of 1963 recognizes a woman's independent personality; makes free consent of a bride necessary for her marriage and has also made provisions for annulling a forced marriage. The new Code has also introduced for the first time a wife's right to divorce. The Code makes child marriage and unequal marriages punishable. (where difference of age is more than 20 years)

The Sixth Amendment in the National Code (Muluki Act) made during the International Women's Year (1975) granted a daughter who remained unmarried till the age of 35 an equal share with her brothers in parental property.

A wife has now absolute right to dispose of all the movable and half of the immovable property received by her as her share in her husband's property. In a joint family where a husband is a co-parcenor, his wife has only an interest in her husband's share. A wife who has obtained a divorce from her husband has a right to alimony for some period.

There are two types of women's property Stri Amsa (Woman's Estate) and Stridhan (Woman's exclusive property). Stri Amsa may consist of Daiji (gifts given to her on her father and mother side) and Pewa (gifts given to her by the husband, his relatives and friends).

In Nepal polygamy is allowed, but polyandry which is a customary practice in certain northern regions of the country, is not recognized as valid.

Originally Jari was punishable by recovery of compensation by the wronged husband from the other man. The feminist movement opposed the payment of compensation as it implied that the wife is a personal property of the husband.

Sri Lanka

Sri Lanka ratified on July 18, 1980, the Convention of the Elimination of All Forms of Discrimination Against Women. In spite of a countrywide campaign for bringing equality to women, discrimination against women persists, particularly in the economic field. The division of labour is biased in terms of sex, which helps to perpetuate inequality at work, banning women from occupations which offer more responsibility, higher pay and greater job satisfaction. For example, certain professions like teaching, nursing and typing were given feminine associations. The key area of discrimination is that of wages in the tea estates where open and legal discrimination is practised, unlike other sectors of employment where women are generally entitled to equal wages. Women have very little say in the formulation and implementation of social policies aiming to remedy inequality.

In Sri Lanka the women under the Kandyan Marriage & Divorce Act, 1954, are discriminated against in matter of divorce: while the husband can ask for divorce on the ground of adultery, the wife must prove incestuous adultery combined with gross cruelty.

The orthodox aspect of Buddhism which ordained that women must rise early and he last to retire speak sweetly, manage the home well, look after the guests and be obedient to their husband has prevailed.

Singapore

There are presently two systems of law regulating marriage and the family in Singapore. A statutory civil system governs non-Muslims and Muslims are governed by the Shariah Law. In 1961, with the enactment of the Women's Charter, polygamy among non-Muslims was abolished.

Part VI of the Charter deals with the "Rights and Duties of Husband and Wife". Section 45 attempts to provide a guide for the behaviour of married couples in Singapore by declaring that husband and wife "shall be mutually bound to co-operate with each other in safeguarding the interests of the union and in caring and providing for the children", and that they "shall have equal rights in the running of the matrimonial household". And, in line with the concept of sexual equality, the section also declares that husband and wife shall have the right to "engage in any trade or profession or in social activities". The wife shall furthermore have the "right to use her own surname and name separately. However, the surname of a child shall ordinarily be the surname of the father of the child.

According to Dr. Molly Cheang, as no special enforcement of these provisions existed, the legislature's aim was to educate and influence social behaviour rather than regulate it.

The Charter, however, gave the women a right to an independent domicile and the right to property generally, to contract and to sue in tort.

Before 1 June 1981, a married woman's domicile was, in law, dependent upon that of her husband's. This was a major disability in that since a common Singapore domicile was a pre-requisite to invoke the court's jurisdiction in divorce proceedings, a married woman could be deprived of resort to the courts for a divorce by a deserting husband. Section 45A of the Charter has now removed this incapacity and a married woman can now acquire her own domicile.

There is community of property and equal division of property at the time of divorce. Even where matrimonial property has been acquired by the sole effort of one spouse only, for example the husband, the court shall in making the division nevertheless consider the contribution made by the other spouse (in this case the wife) to the welfare of the family.

The Women's Charter provisions on the solemnization, dissolution and matrimonial property division do not apply to Muslims. Marriages between Muslims are governed by Muslim law as modified by the Administration of Muslim Law Act.

The right of polygamy in Muslim marriage though still existing in theory, is regulated in practice by section 90(2) of the Administration of Muslim Law Act which provides that no marriage shall be solemnized if the man to be wedded is already married to any other person except by a Kathi or with his written consent. In this way polygamy among Muslims has to a great extent been restricted in fact.

A Muslim woman cannot marry a man who does not profess Islam while a Muslim man can marry a woman who is either a Muslim or who believes in Scriptures accepted and acknowledged by Muslim Law (e.g. a Christian or a Jewess).

Although section 47(1) of the Administration of Muslim Law permits a Muslim woman to apply to the Shariah Court for a divorce in accordance with Muslim law yet she can only be granted a divorce if the husband consents to it.

Male heirs generally get double the share of female heirs.

Section 65A of the Charter empowers the court to make orders that the respondent shall not use or threaten to use violence against the applicant and that the respondent shall not use, or threaten to use, violence against a child of the family. Moreover, the court has power to require the offending spouse to leave the matrimonial home or prohibit him from entering the matrimonial home and as additional protection the court may where it considers that the injury is likely to occur again attach a power of arrest to the order whereby the violent spouse may be arrested without warrant by any police officer for any suspected breach of the court's order.

In this way, the Charter reinforces the principle of equality and seeks to restore the dignity and respect of the person with the husband-wife relationship whenever violence occurs in that relationship.

Singapore women suffer discrimination in certain respects e.g. A Singapore man has more freedom in choosing a wife. He may marry a foreign women and set up his matrimonial home in Singapore. His wife can obtain citizenship by registration fairly easily after 2 years of continuous residence, while a foreign husband of a Singapore women can only become a Singapore citizen by naturalization, i.e. among other things, he needs to stay in Singapore for not less than 10 out of the 12 years preceding his application.

Citizenship for offspring by descent occurs only if the father is a Singapore citizen.

A husband may claim personal relief from income tax for his wife but not vice-versa.

The equalization process in Singapore seems to be the result of women's active participation in production and the economic development of the country.

Prostitution and problems of migrant women are a matter of special concern.

Hong Kong

A married women in Hong Kong suffers discrimination as there is no community of property and no value is given to the contribution made by a woman in looking after the home and the children.

Although an executive officer is entitled to housing subsidy, a married woman in the same rank is excluded from participation in housing schemes, nor can she enjoy the benefit of living quarters or housing benefits, even if she is willing to make the necessary contributions.

Her husband and children are excluded from Government medical and dental services, even if she is prepared to pay the charges. No education subsidies are available to her children, whether in Hong Kong or in United Kingdom.

Her husband receives no Government travelling allowance to visit her, if she is sent abroad on a training course. A male officer's wife can visit him with passage paid by the Government, if he goes on a fourteen-week course and if she stays for over three weeks with him.

Since a women is awarded equal pay she pays the same tax on her income as her male counterparts. But she is excluded from the established "fring benefits" that come with the job.

During marriage, her husband could obtain a passport, take the child, and go abroad without her consent, but she could not do so without his consent, not even to Macau.

There is no paid maternity leave in Hong Kong.

Republic of Korea

Korea has been under the influence of Confucion tradition which demands obedience from woman to man as a father, husband or son.

"This Confucian thought exercised a fundamental and powerful influence on the Korean family system. Highest significance was given to the continuation of the blood line through the males. The "head of the household" system which requires that every household be headed by the first son (even though he might be only a one-month-old baby) perpetuates the concept that men are naturally superior to women. If by chance there were no son in a family, one would be adopted in order to have a male to inherit the headship and continue that family's line.

The head of the family had all authority and control over the rest of the family; sons were more highly esteemed than daughters; the husband had precedence over his wife; and a father had a higher status than a mother."

The Civil Code of the Republic of Korea, 1960, and the revision of the Family Law in 1979 reduced the area of discrimination against Korean women. Certain inadequacies, however, still exist. Dr. Tai-Young Lee and her associates inter alia, argue that:

(1) The boundary of relatives should be the same for both husband's and wife's family, namely that all with four degrees of blood ties should be considered relatives.

(2) The system of prohibition of marriage between persons of the same name and same place of family origin should be abolished.

(3) In case of divorce, either partner should have the right to petition for division of their common property. In addition, recognition should be given to the value of the wife's work in the household as contributing to common investments.

(4) The existing system of the head of the family should be abolished.

One provision, however, in Dr. Tai-Young Lee's paper is of particular interest. Among the changes which were made in June 1960, she has mentioned a change which roads as follows: "Succession through the maternal line was recognized. That is to say, when there is no son, a daughter may continue the family line and in such a case, if she marries, her husband is registered in her family register and their children take the mother's family name and clan origin".

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This raises the question as to whether the return to matriarchical system will be the answer to achieve rights for women. The subjugation of women is said to have become worse under the Patriarchal system which still prevails.

Thailand

The status of women in Thailand before the Civil and Commercial Code Book V, 1976, was pitiable. Polygamy was prevalent. A husband had the right to beat his wife who could not fight back and if she did, she had to salute him with flowers in apology. The marriage could be terminated by the man cutting a pole of his house and walking away. Bigamy was not a crime. Prostitution is a problem in Thailand as it is in almost every country of this region.

The Code attempted to give women equal rights with men. It is, however, compulsory for the married woman to use the married surname even now; woman is also discriminated in the matter of divorce if mutual agreement is not reached in respect of divorce. The first ground for divorce status, "when a husband adopts or takes care of another woman as his wife or when a wife commits adultery, the other party is eligible to file a case for divorce". Asst. Prof. Tipchanok Ratanosoth in her paper, "Positive Glances at Thai Women's Rights" views this inequality thus: "the legislative body understands men's behaviour far too well that they always have the inclination for commiting adultery. So if the law happens to say that commitment of adultery by a husband is enough to be a cause for a divorce, all husbands would be busy spending most of their days in the court than at home. Women then should try to conceive that this section of the law simply recognizes women's virtue much higher than that of the opposite sex".

Malaysia

In Malaysia, prior to the coming into force in 1982 of the Law Reform (Marriage and Divorce) Act 1976 the marriage systems were in a chaotic state. Each ethnic group had its own set of rules, regulations and customs pertaining to marriage and divorce or they could opt to be subjected to the statutory law, which however was itself confusing.

In Peninsular Malaysia alone there were four different statutes governing marriage and divorce. These were the Civil Marriage Ordinance, the Registration of Marriage Ordinance, the Christian Marriage Ordinance, and the Divorce Ordinance, all of 1952.

The present Act applies to all persons domiciled in Malaysia with the exception of Muslims, the natives of Sabah and Sarawak and the Aborigines of Peninsular Malaysia. However, the two latter groups may opt to marry under the Act in which case they would also have to seek matrimonial relief under the same Act.

This Act provides for the usual provisions as to minimum age, consent and formalities. The fundamental difference will be that all marriages whether celebrated at the Registry of Marriages, Churches, Temples etc. will be monogamous.

The ground for divorce under the Act is the irretrievable breakdown of the marriage. If a husband and wife mutually agree that the marriage should be dissolved, they may after the expiration of two years from the date of their marriage present a joint petition for a divorce to the courts.

Section 76 empowers the court to order division of the property acquired during the marriage by the joint efforts of both parties. Even if the property is acquired through the sole effort of one party, the court can order division of the property except that the party by whose effort the assets were acquired shall receive a greater proportion.

A reconciliation machinery has been provided under the Act; the fact that many of the reliefs cannot be asked for until reconciliation process is over may cause hardship.

Women are discriminated in matters of inheritance, they are entitled to maintenance through Court process. The father is the natural guardian.

Indonesia

The marriage systems in Indonesia have been influenced by religion on the one hand and custom or "Adat" on the other. This has from time immemorial come under the influence of many religions, such as Hinduism, Buddhism, Christianity and Islam.

Kinship patterns affect the family and social lives of Indonesians outside the cities and towns. To the extent that adat law is grounded on the customs of such kinship groups and is the law generally used in family matters, these kinship patterns still affect the status of women in some particulars. Kinship patterns can exercise an important influence on a woman's position in marriage, particularly with regard to control of property and inheritance rights.

/Kinship

Kinship groups are either patrilineal, matrilineal, unilateral or combination or choice of the lines of descent: "bilateral", "parental", "double unilateral", or "alternating unilateral".

The woman's position as wife and mother is usually subordinate to the husband's, even in the home.

In bilateral or parental communities, the husband and wife each belong to their own kinship group, and the children belong to the kinship groups of both parents. The woman's position in such a system is usually equal to the man's and it is this system that is the most common in Indonesia.

The Marriage Law of 1974 to a great extent imposed unity and consistency upon the customary marriage laws, and has been important in improving the legal status of women. Suits under the Marriage Law of 1974 and involving Moslems are tried by the Religious Court (Pengadilan Agama); those of other religions have their cases heard in the General Court (Pengadilan Negeri). The Negeri must also confirm the decisions of the Agama.

Article 31 of the Marriage Law states that the rights and obligations of the wife are equivalent to those of the husband with regard to both the marital relationship and the couple's relationship to society. Article 34, however, states that the husband is obligated to support his wife to the best of his abilities, while the wife is obligated to maintain the household. The law thus makes the husband the head of the household and the wife the homemaker.

Polygamy is only allowed when the wife has a physical disability or disease, or is infertile or unable to fulfil her sexual duties to such an extent that the marriage is threatened. In polygamous situations, the husband must support both wives and promise fair treatment of both.

The grounds for divorce are the same for either party. Inheritance rights differ according to which law is applicable: adat, Islamic, or Civil Code law. There has been discussion of adopting a unified inheritance law throughout Indonesia, but this has yet to evolve. The present position, however, is uncertain and complex. Generally, under adat law spouses are not heirs to each others estate; the estate passes directly to the children.

Because the Indonesian population is overwhelmingly Islamic, adat law has absorbed some of Islam's legal precepts.

/The Philippines

The Philippines

The Philippines has a legal system derived from the Roman Civil Law, English Common Law, Islamic Law, the Canon law of the Roman Catholic Church, as well as customs which have survived centuries of colonial rule.

During pre-Spanish times, the Filipino women occupied a high position in society. Monogamy was generally observed except in the Muslim area. Marriages were arranged by the parents but the bridegroom was charged with bringing the dowry or "bigaykaya" to the marriage. This could take the form of money or a piece of land and services rendered to the girl's family. After marriage, she retained her maiden name, was treated as an equal by her husband and had a say, not only in domestic but also in state affairs. She could succeed to sultanates, particularly where male heirs were wanting. Divorce was allowed and could be obtained by women.

Under the Spanish rule (1521-1898) and the influence of Catholic Church, women in Philippines became essentially homemakers and gradually lost almost all rights. In law, the status of women was assimilated to that of the minor child and those who were incapacitated like idiots and lunatics. Even if financially endowed, a married woman had no right to manage or dispose of her properties without the consent of her husband.

With the victory of the Americans in the Spanish-American war of 1898, the spread of education and democracy, social, political and economic restrictions on women were eased. The constitution declared that the State shall afford protection to labour, especially to working women and minors.

Maternity leave with pay, granted by legislation, evidently a concept that was premature in the '20s was, however, declared unconstitutional by the Supreme Court on the ground that it violated the principle on non-impairment of the obligation of contracts, but the right was subsequently incorporated into law, thus rendering the earlier decision of no effect.

Filipino women obtained right to vote in 1937 after they fulfilled conditions that this right would be granted to women if "in a plebiscite which shall be held for that purpose within two years after the adoption of this Constitution, not less than three hundred thousand women possessing the necessary qualifications shall vote affirmatively on the question". The plebiscite rewarded the women's intensive campaign with an overwhelming 447,725 votes.

The Civil Code of the Philippines, applies to the family relations of non-Muslims; while Muslims are governed by the Code of Muslim Personal Laws of the Philippines, based on the Quran. 69 per cent of all marriages in the Philippines are contracted through religious ceremony, 31 per cent by civil authority.

/The

The legal requirements pertaining to consent, legal capacity, (Age and prohibitory degrees etc.) are common to marriages in all countries but they are of particular significance to Philippines where divorce is not permitted and marriages are either dissolved through annulment or legal separation.

The consent of the parties freely given is required since marriage is a juridical act safeguarded by law. (Child marriages are alien to Filipino custom and culture.) Where consent is vitiated by violence, intimidation or fraud, the marriage may be annulled. The State may dissolve the marriage through annulment only upon such grounds recognized by law and existing at the time of marriage.

While the Catholic Church grants annulments by a declaration of the nullity of the marriage due to specified grounds, the State does not recognize them. Indeed, this is an area which constitutes a major irritant in the relationship between the Roman Catholic Church and the State in view of the numerous Catholics who successfully obtain Church annulments and subsequently contract other marriages, which however lack validity in the eyes of the law.

As marriage is not only a Church sacrament or a contract but a vital civil institution, the law requires a permit for religious officials to solemnize marriages. So important is this State authority that a marriage performed by one not authorized by law is without legal effect, regardless of the good faith or ignorance of the contracting parties. Marriages are required to be registered in the Civil Registrar.

A Muslim is, however, permitted limited polygamy under the Muslim Law. It is still the general attitude that marriage lends respectability to a union and there has been an appreciable increase in the number of marriages. The offspring of extra-marital relations being illegitimate, are not be entitled to such rights as bearing the name of the father and receiving their lawful share of the parent's inheritance. This stigma still attaches to illegitimate children.

The husband, as head of the family, is responsible for the support of his wife and children, while the wife manages the affairs of the household. Both jointly exercise parental authority over their offspring but in case of disagreement, the father's decision shall prevail, unless there is a judicial order to the contrary.

The husband is the administrator of the conjugal properties, although he may voluntarily transfer this power to his wife or the court may divest him of it for justifiable reasons. In practice, however, the wife holds the pursestrings.

A 1950 amendment to the Civil Code empowered a wife to own, administer, mortgage or dispose of her separate or paraphernal property without having to secure the consent of her husband. The husband generally decides the residence of the family. The wife may exercise any profession or occupation or engage in business. However, the husband may object provided his income is sufficient for the family, according to its social standing, and his opposition is founded on serious and valid grounds.

The wife cannot, without the husband's consent, acquire or receive any gift except from her family or very close relatives. Inasmuch as the wife is not the administrator of the conjugal properties, she cannot perform any act which would automatically make such properties accountable, unless with her husband's consent. When her husband dies, she does not automatically exercise his rights and powers as administrator of the minor children's properties. For this purpose, she has to secure the court's approval.

The disparity in her position vis-à-vis her husband becomes more pronounced when a spouse desires to end the marriage. While adultery on the part of the wife is a ground for divorce, it is concubinage on the part of the husband, which may be committed by the husband keeping a mistress in the conjugal dwelling or when he engages in sexual intercourse under scandalous circumstances with a woman other than his wife, or where he cohabits with her in another place.

Since the grounds for legal separation are restrictive, it invariably happens that the husband acquires another woman and sets up a second family.

Divorces obtained abroad by desperate married couples are not recognised.

Papua New Guinea

The Constitution of the independent State of Papua New Guinea encompasses the ideal for the rights of women in the State. The broad guidelines for the rights of women in marriage are stated by the National Goals and Directive Principles which underlie the Constitution.

National Goal and Directive Principle 2(12) states:

> Recognition of the principle that a complete relationship in marriage rests upon equality of rights and duties of the partners and that responsible parenthood is based on that equality.

Since 1964, people in Papua New Guinea have had the choice of entering marriage according to custom under Section 55 of the Marriage Act 1963 (No. 84 of 1964), or by a non-customary, western-style ceremony as set out in part IV of the Marriage Act 1963, ss. 28-54. Both forms of marriage are equally valid and effectual under Section 55(2) of the Marriage Act 1963.

Papua New Guinea is an example of a society where women for generations have been seen as mothers, the quiet strength of kinship groups governed by varied tribal marriage systems, suddenly thrown into contact with the West, in some parts for less than 50 years and in that short period, have moved from traditional civilization to a modern one.

In customary marriage systems consent is not the central factor; marriages as in many other parts of Asia are family and kinship associations. Child betrothals, in which the child involved cannot give informed consent, also occur in many societies, as does polygamy in which consent by the first wife or wives is largely irrelevant.

Western law has superimposed consent as a pre-requisite for a valid customary marriage. In Papua New Guinea, customary polygamous marriages are valid under s.55 of the Marriage Act 1963.

The Law Reform Commission has recommended that the consent of the wife or wives should be obtained before a polygamous marriage may be entered. If all parties are in agreement, the parties should be free to marry polygamously.

Due to the dual system of marriage in Papua New Guinea, there is also a dual system of divorce. However, the individuals are not at liberty to choose the form of divorce. The customary laws and attitudes on dissolution of marriage throughout the country are extremely disparate.

/Divorce

Divorce is a matter affecting the whole community, not just the two individuals who were parties to the original marriage, since divorce can also dissolve the relationships between two kin groups.

The problems involved in establishing whether a customary divorce has been obtained are as complex as those in proving customary marriage as there is no formal ceremony associated with divorce. According to McRae, the overwhelming majority of Papua New Guineans conduct their matrimonial affairs in accordance with customary law.

Mistreatment, Wife Returning to Kin, Adultery are some of the main grounds for customary divorce. The hearing of divorce proceedings is unfair to women as it is not accepted that a women should offend her male partner by speaking in public and being more knowledgeable than him, the hearings in many of these societies are in public where men make speeches.

Dissolution of Non-Customary Marriage is based on the "matrimonial fault" theory. The extremely high cost of divorce under the present law makes divorce an impossibility for many Papua New Guineans married under Part IV of the Marriage Act, i.e. the Western style marriage.

Japan

In Japan the Civil Code as revised in 1947 based on the constitution of the 1946 provided women with equality in every possible right resulting in changes in the way of living and pattern of family life. There is complete equality in the matter of marriage, property rights, divorce, parental rights over children in Japan. The Family Court machinery is available for mediation where the partners fail to come to an agreement. The marriages must be registered.

There is no institution of alimony, but a woman (or man), when divorced, may demand distribution of property from the husband (or the wife), though the actual amount of such distribution is generally very small because the husbands are seldom in possession of much property.

In 1976, the Civil Code was amended to give women the right to continue to use the married surname, on application within three months

/after

after the divorce, without consent of the other party to the marriage. "Prior to this amendment, persons who had changed their surname upon marriage, in most cases women, were required to resume their previous surname after divorce."

The 'name' controversy has been raging for some time. Women have at times insisted on using their maiden surnames either because they are attached to the name or to assort symbolic independence from men. Demands are often made for legislation giving women the right to choose their names, citizenship, domicile, place of residence or nationality. These rights do not exist in many countries of this region.

In spite of the changing patterns of family life, it became evident in a recent opinion survey undertaken by the Prime-Minister's office in Japan, that traditional attitudes to traditional role patterns still prevail.

The new Civil Code provides for the joint inheritance of the children, both male and female, in equal shares, and the wife always has the right to inherit her husband's property, regardless of whether or not he has left a will.

In recent years the decreased birth rate, increase in the life expectancy, the availability of modern household appliances have effected further changes in family life. Women have been spared much of the time and energy spent on their house work with the result that the number of married women who want to undertake gainful work has increased. About half of all married women are in the labour force and 6 out of 10 married women workers have children under 18 years of age. One out of 5 have children under 6 years of age.

In 1981, there were 22,487 day nurseries all over the country which accommodate about 2 million children under 6 years of age. However, a new problem for women has arisen from such a situation: how to successfully combine their family responsibilities with their working life.

/The two

The two factors, a high divorce rate and an increase in the number of nuclear families are causing instability in family life.

Australia

There is complete legal equality in the matter of family law in Australia.

Since the Family Law Act was introduced in 1975, the only ground for divorce (available to both men and women) is that "the marriage has irretrievably broken down", conclusive evidence of which depends on proof that "the parties have lived separately and apart for a period of 12 months".

The only restrictions on the freedom of movement of women and equality are those inherent in and incidental to the continued traditional role pattern of men and women. The inadequacies in law are not of major substantive laws but those which are discovered in the process of implementation of the laws. It appears that pressures arise to remedy these situations when they become apparent.

The existence of Family Courts and numerous other bodies, for example, the Sex Discrimination Boards, the Commissioner for equal opportunity in South Australia under the Sex Discrimination Act, 1975, the presence of Advisors on women in state and federal governments help in this process.

Defacto marriages are not covered by the Family Law Act, nor are their children. These depend instead on the operation of a variety of individual state laws, under which mothers usually retain custody of children, and can sometimes prove paternity and obtain maintenance for children. Where property claims depend on establishing financial contributions or other factors, the area of common law applies and there have been frequent calls for a code to be introduced to render these rights more rational and consistent. There is no right to "Palimony" in Australia.

/Australia

Australia, like Japan, has to counter problems which are common to developed and prosperous countries such as violence against women, sexual harrassments and high divorce rate which led Daphne A. Kok, the President of the International Federation of Women Layers, to say in her paper on "Women and Law", that, "The law has always enforced monogamy, although the relative case with which divorce is obtained by either husband or wife since 1975, would cause one to describe the present situation as 'serial monogamy'. The Australia situation perhaps requires efforts which will preserve the family, the basic unit of society until an alternative is found.

Elsewhere in the Region

Buddhism has affected the marriage system and laws of Burma where women have been treated favourably and have throughout history enjoyed almost equal freedom with men and have been free from many fetters that bound them in ancient and medieval India. The traditional role pattern restrictions however continue.

Marriages by customary traditions are encouraged to be monogamous in Bhutan. Widow remarriage is permitted. The dowry system or the bride price is not prevalent. Women have equality with men in the social, political and economic life of the nation.

There is no fixed procedure for divorce as it is rare. It is fair and flexible depending on the facts of each case. Both during marriage and after dissolution of marriage, the husband and wife have equal share in the property.

The People's Republic of China by its Constitution and the Marriage Law of the People's Republic of China 1980 has stated as its objective complete equality with men. The Marriage Law of China is a very comprehensive piece of legislation touching almost all aspects of marriage, family, divorce, family planning and the status of women. Essentially this enactment treats women as separate individual human beings and gives them equal status with men.

Women have the same rights as men in Kampuchea. Marriage is monogamous and divorce can be obtained by parties by mutual consent. Women have equal shares in the property of the husband with the exception that a widow gets a share if she has children. The practice of alimony does not exist. Widow remarriage is allowed and in fact the state encourages large families.

In Laos women have equal rights with men in matters of family law. The nuclear pattern of families exists. The man is, however, the pater of family in all respects within the family and represents the family outside the home.

Viet Nam is one of the few countries which has a provision relating to marriage and family in its constitution and it has granted legislative equality to women in matters of marriage, divorce, and rights over the children.

III. A proper prospective on marriage may help preserve marriage. The fact that marriage, a very ancient institution has servived to this day speaks of its inherent strength. Marriage in the traditional sense is an alliance for life between a woman and a man which has been given socio-legal recognition or status and which involves rights and obligations to each other and society as a whole.

Marriage is in fact a union of body, mind and soul (some prefer to call the emotional and feeling part of human personality consciousness) of a woman and a man for life which makes it imperative that such a union is between equals who are free and who have deep affection and respect for each other.

True marriage results in a delicate, sensitive, beautiful and creative relationship which is akin to that of God and his creation, of mother and child and which has to be nurtured with great care and tenderness.

F.W. Robertson has rightly said that

> "there is no earthly relationship which has so much power to ennoble and to exalt. There are two rocks, in this world of ours, on which the soul must either anchor or be wrecked - the one is God, and the other is the sex opposite",

The intensity of misery, bitterness and wretchedness of a marriage turned sour can be immense. Married women suffer tremendous discrimination in employment in every country of this region or for that matter throughout the world. The very act of procreation without which the world will not exist creates disabilities to her.

Many countries of this region have enacted equal remuneration Acts in accord with the international mandate but those have been counter productive because the employers prefer to employ men as they do not

wish to lose working hours which become necessary as women have to take maternity leave or leave for other collatoral - reasons. Existing role patterns dictate that it is the woman who takes leave to look after the home and the children in emergencies.

Innumerable cases of discrimination make it clear that there is need for detailed regulations, both in the organized and unorganised sectors of employment. Further a strong implementation machinery is required to effectively implement the 'equal pay for equal work' concept. A plan for lucrative part time employment for women may be considered, besides there is need for flexibility in implementation of rules.

The provision of facilities is not enough; the education and training of the couples to understand the new role patterns and needs of each other is necessary.

The customs, e.g. arranged marriage system in some countries when a women becomes an object of display to be chosen, the Purdah System, Seclusion of women and ethnic heritage reflected in daily living habits, beliefs even superstitions make the position of women vulnerable particularly in the patriarchal system.

The major customs and practices which persist in spite of legal prohibitions and which have been exercising the minds of the workers for women's welfare are: the customs of Dowry with the evil consequences of torture, cruelties even deaths; child marriages; isolation of widows; the Devdasi system by which young girls, sometimes even children are dedicated to temples-another form of prostitution; prostitution itself (which is now regulated in some countries for medical reasons) and wife beating, so frequent both in the West and East and brutal that it is a practice which has led to the need for setting up of refuge or shelter homes.

The discriminatory administrative policy against married women is exhibited when a married woman in India is denied allotment of separate chamber to practice law or a separate plot because she is married. Another example is the refusal in Hong Kong to make the wife a joint tenant in a flat, when if she were just living with a man she would be entitled to these facilities.

The varied and colourful ceremonies of marriages of different countries present the most charming aspect of marriage, and also reflect

the culture and social behaviour of the people. Marriage is a happy occasion, which is looked forward to, by not only the couple but their families and their relations who all get together particularly in the rural areas where majority of the people in this region live. The special marriage songs and dances, the fun and frolic around the couple makes them feel like a king and a queen for a day. The head dress worn by the bridal couples in many countries resambles a crown.

These beautiful ceremonies, a part of the cultural heritage, ought not however become meaningless rituals, a financial burden or a source of irritation and nuisance.

The strategies used by the various countries of the Asian and Pacific Region to remedy the situation have brought relief to individuals but not succeeded in revamping the marriage systems. Japan has progressed considerably in Logislative activity and its implementation.

The realisation that the state must come to the aid of women to remedy the imbalance in employment has led to legislations and provision of facilities, e.g. maternity leave, nurseries, tax benefits and other incentives to employers.

In Japan in 1975, a law was promulgated making it mandatory that replacement be found for women teachers taking pregnancy leave. In order to protect motherhood as well as to maintain the regular classes. Child care leave which assured continuity of service, which women in Britain have been demanding, has been legislated in Japan on July 3, 1975, but it seems it has not been made applicable to all women.*

Japan is one of the few countries to extend social insurance laws to women and provide for industrial framework law. Japan has planned action for the decade for women.

Australia has evolved various modalities for implementation of equal rights granted to women and in the process discovered many discriminatory practices against women and men. Constant evaluation of laws prejudicial to women is being carried out in Australia.

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* Denmark has started schools for educating couples and preparing them for equal role patterns.

In consonance with the concept that protection discriminates while participation liberates, the protective laws are being replaced by legislation which give greater opportunity of work in areas which were not open earlier to women, for example, underground mining. The I.L.O. Convention No. 111 has been under criticism in this respect.

The Indonesian Institution of Consultation and Legal Aid for Women and Family has located its office in one of the most beautiful mosques in Jakarta; the purpose is to consolidate the family relationship. Nani Yamin quotes Khalil Gibran in 'The Prophet' : 'Then Almitra spoke again and said, "And what of marriage, Master?" And he answered saying, "You were born together and together you will be forever more. You shall be together when the white wings of death scatter your days. Aye, you shall be togehter in the silence of God".

The ideology and stress on economic advancement has brought about equality for women in the communist Republic of China, Kampuchea, Viet Nam, Laos, Mongolia, etc.

The participation of women in socio-economic activities of the nation has helped countries like Singapore, Malaysia, Thailand etc. to achieve factual equality in some spheres.

The Korea Legal Aid Centre for Family Relations started by Dr. Tai-Young Lee, the first women lawyer in South Korea, has helped, in 25 years till 1981, 150,000 women, one by one.

India is the only country in this region to use the strategy of Public Interest Litigation for getting relief for women through court process. Several cases of dowry and rape victims have been filed in which favourable orders have been obtained.

In two recent cases where the personal laws of the Christian women were challenged the Supreme Court issued notice to the State to show cause why these laws should not be stuck down.

In one case a Syrian Christian woman was denied equal rights in intestate succession. In the other under the Indian Divorce Act 1869, a Christian man could obtain divorce on the ground of adultery while a woman who sought divorce had to prove "incestuous" adultery, on the part of the husband.

The Courts in India and other countries have helped remove discrimination against women whenever cases have been brought before them. The Government of India has now accepted to establish the Family Court in India. Its infrastructure is being worked out and several models are being studied including the Australian model.

There is an activist women's movement in India, as in other parts of this region. Women have been stirred and are no longer willing to accept an unequal status in or out of marriage. For the first time in the history of women, concerted efforts are being made to accept a woman as a separate human being with a name and an identity, a personality and a dignity of her own, who will not only be loved by her children but also respected by them. She has to be recognised as such for her own sake and not for the sake of the world at large. She is a human being with the faults, virtues and feelings of a human being. She is neither a goddess nor dull drab, drudge, doll nor an inferior obedient slave of man. She has been that too long.

"Many more miles have to be covered", "many more mountains to be climbed", many more activist actions to be taken but nothing can stop the forward march of women now and the objectives set by the International Decade for women will be achieved. But in order to achieve them in the shortest possible time an activist action plan of law reform and strategies to be prepared by the international community with recommendation for its adoption by member nations of United Nations is an essential first step.

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